

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

Criminal No. 04-265 (1) (RHK/JSM)

vs.

ORDER

Thomas Joseph White,

Defendant.

Before the Court is Defendant's Motion to Modify Sentence. The grounds for the requested relief are Defendant's extraordinary efforts in making full payment of the Court-ordered restitution, his post-sentencing rehabilitation efforts by way of his speaking engagement to law students and, finally, the deteriorating medical condition of his autistic son. It is the medical condition that is of primary concern to the Defendant, his wife, and this Court.

The Court, however, is constrained by the provisions of 18 U.S.C. § 3582(c)(1)(B) which provides:

“[t]he Court may not modify a term of imprisonment once it has been imposed except that . . . the Court may modify an imposed term of imprisonment to the extent otherwise permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure.”

Neither counsel for the Defendant nor for the United States has directed the Court's attention to any statute or any provision of Rule 35 that would permit the granting of the requested relief.

The Court reluctantly concludes that it is without authority to modify the Defendant's sentence and, accordingly, Defendant's Motion to Modify Sentence (Doc. No. 28) is **DENIED**.

Dated: December 13, 2005

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge